

Message Text

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46
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DRAFTED BY EA/J:DGBROWN:BB

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DOJ - MR. MCLAUGHLIN

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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO PRIORITY

UNCLAS STATE 276034

E.O. 11652:N/A

TAGS: GEN, JA

SUBJEC :DEPARTMENT OF JUSTICE DEPOSITION REQUEST

REF: TOKYO 16271

1. DEPT. AND JUSTICE OFFICIALS CALLED IN JAPANESE EMBASSY
LEGAL ATTACHE (HOTTA) DEC. 16 TO REVIEW STATUS OF DEPT.
OF JUSTICE DEPOSITION REQUEST. DEPTOFFS, TOLD HOTTA THAT
TRIAL HAD BEEN SET FOR FEB. 10 AND THAT US DISTRICT COURT
HAD ISSUED COMMISSION TO JACKSON TO TAKE DEPOSITION IN-
DICATING DESIRABILITY THAT DEPOSITION BE TAKEN DURING
WEEK OF JANUARY 6 SO THAT ADEQUATE PREPARATIONS COULD BE
MADE FOR TRIAL THEREAFTER. IF DEPOSITIONS NOT TAKEN IN
JANUARY, TRIAL WOULD HAVE TO BE DELAYED WITH GOOD
POSSIBILITY THAT INDICTMENT MIGHT THEN BE DISMISSED WITH
PREJUDICE. SIX MONTHS RULE RE DISPOSITION OF CASE BEGAN
AUGUST 28, 1974 WHEN DEFENDANTS WERE INDICTED. DEPOSITIONS
ARE ESSENTIAL TO CASE AGAINST POWELL, WHO IS MAJOR
DEFENDANTS AND PRIMARY VIOLATOR IN CASE. DEPTOFFS ASKED
THAT HOTTA CONVEY TO TOKYO USG'S STRONG HOPE THAT DEPOSITION
CAN BE SCHEDULED FOR WEEK OF JAN. 6 OR AS SOON THEREAFTER AS
POSSIBLE. HOTTA SAID THAT HE WOULD CONVEY USG'S CONCERN RE-
SCHEDULING TO TOKYO AND AGREED THAT TOKYO SHOULD REMAIN
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PRIMARY LOCAL OF CONTACT BETWEEN TWO GOVERNMENTS ON THIS

MATTER.

2. RE QUESTIONS RAISED PARA 4 REFTEL: AS FAR AS JUSTICE CURRENTLY AWARE, ALL OF FOUR DEFENDANTS PLAN TO ATTEND DEPOSITION PROCEEDING. US ATTORNEY'S OFFICE INTENDS TO SUBMIT VISA APPLICATIONS WHICH DEFENDANTS HAVE EXECUTED TO JAPANESE CONGEN SAN FRANCISCO ON DEC. 17 OR SOON THEREAFTER. ACCORDING TO PREVIOUS TRAFFIC (TOKYO 14234 AND ITS REFTELS) GOJ AWARE OF QUESTIONS RE CUSTODY AND SUPERVISION MENTIONED PARA FOUR REFTEL, BUT WISHES TO POSTPONE THEIR DECISIONS UNTIL VISA APPLICATIONS SUBMITTED. JUSTICE HOPES THAT GOJ WILL PLACE EXTREMELY RESTRICTIVE CONDITIONS UPON DEFENDANTS ENTRY INTO JAPAN. THE FACT THAT US DOES NOT HAVE JURISDICTION OVER DEFENDANTS WHILE THEY ARE IN JAPAN WILL UNDOUBTEDLY INFLUENCE ENTRY CONDITIONS SET BY GOJ. TO EXTENT PERMITTED BY JAPANESE LAW, US OFFICIALS ARE PREARED TO COOPERATE CONCERNING SUPERVISION OF DEFENDANTS IN JAPAN. DIFFICULT ISSUES INHERENT IN SUCH QUESTIONS REINFORCE JUSTICE'S DESIRE FOR EARLY GOJ DECISION CONCERNING SCHEDULING OF DEPOSITIONS TO PERMIT ADEQUATE TIME FOR SUCH PRACTICAL PREPARATIONS.

3. DEPARTMENT APPRECIATES EMBASSY'S EFFORTS TO OBTAIN EARLY GOJ DECISION AND ASKS THAT THEY BE CONTINUED. KISSINGER

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